

**ZONING BOARD OF APPEALS  
ORGANIZATIONAL MEETING  
JANUARY 14, 2002**

**AGENDA: ROLL CALL - 7:30 P.M. - Motion to accept 12/17/01 minutes.**

**PRELIMINARY MEETINGS:**

1. **LEONETTI, JOHN** - Request for use variance allowing used car sales in a PI zone at Mertes Lane. (68-1-7.1).
2. **FIDANZA, FRANCO** - Referred by P.B. for a 22 ft. front yard variance to construct addition to Planet Wings on Rt. 32 in a C zone. (45-1-40.21).
3. **BLYTHE, MIKE** - Request for use variance to allow construction of two-family residence at Walsh/Cedar in an R-4 zone. (14-7-24).
4. **FOLEY, ROBERT** - Request for variation of Sec. 48-14A(4) of Supp. Yard Regs. to permit a detached garage to be constructed closer to road than principal structure at 333 Lake Road in an R-1 zone. (57-1-108).
5. **ROSSI/DERIENZO** - Request for 28 sq. ft. sign area variance for freestanding sign at 314 Quassaick Avenue in R-4 zone. (44-1-27).
6. **DEAN, SAMUEL** - Request for variation of Section 48-14A(4) of Supp. Yard Regs. to allow proposed shed to project closer to road than residence at 15 Clintonwood Drive in R-4 zone. (19-4-20).

**PUBLIC HEARING:**

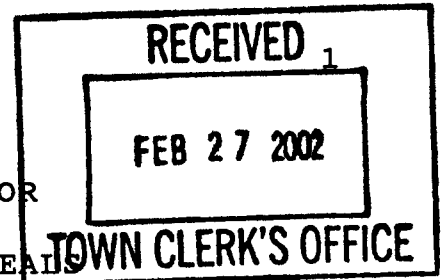
7. **LO CURTO, JOSEPH** - Request for 3 ft. side yard and 5 ft. rear yard variances for existing shed at 369 Chestnut Avenue in an R-4 zone. (57-1-117).
8. **O'KEEFE, DAVID** - Request for 7 ft. side yard and 7 ft. rear yard variances for proposed above-ground pool, plus 4 ft. rear yard variance for proposed deck at 2101 Patriot Court in an R-3 zone. (77-5-14).

**ELECTION OF OFFICERS FOR 2002**

**Formal Decisions: (1)SHEEHAN (2)DI MICELI (3) PANAGIOTOPOULOS  
(4) BOTZAKIS (5) BILA/ORANGE COUNTY TRUST**

**Pat 563-4630 (o) or 562-7107 (h)**

January 14, 2002



TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

JANUARY 14, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
MICHAEL KANE  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

PATRICIA CORSETTI  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I'd like to call the January 14, 2002  
meeting of the Zoning Board of Appeals to order.

APPROVAL OF MINUTES

MR. TORLEY: Motion regarding the minutes of December  
17, 2001.

MR. KANE: I move we accept the minutes of December 17  
as written.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE

January 14, 2002

2

MR. RIVERA  
MR. TORLEY

AYE  
AYE

FIDANZA, FRANCO

MR. TORLEY: Referred by Planning Board for a 22 ft. front yard variance to construct addition to Planet Wings on Route 32 in a C zone.

Mr. Philip Higby appeared before the board for this proposal.

MR. HIGBY: What we're looking to do, I don't know if had you received copies of the maps.

MS. CORSETTI: We only have one copy from the planning board.

MR. HIGBY: Well, what we're looking to do is Mr. Fidanza owns the Planet Wings business in several locations of which one is Route 32 here in Vails Gate. I don't know if you're familiar with it or not, but it's the old Kentucky Fried Chicken site. He had purchased the property sometime ago, probably two years ago. He's done some upgrading on the building and put his business in which is chicken wings, pizza, sandwiches, things of that nature, and what he'd like to do is to expand his business by adding onto the front of the building. It turns out that the front of the building is the only place that we really can add on. What we're looking to do is increase patron dining. The site is one half acre, 5/10 of an acre, 100 feet wide and 222 feet long. And we need to point out that currently is a pre-existing non-conforming lot in that the lot area requires 40,000 minimum, lot width is 200 feet and we're at 100 feet as far as the width. The variance that we're requesting is for the front yard, the existing building is currently at 68.7 feet, actually to the main portion of the building. The vestibule puts another five feet so it's around 63, 64 feet from the building. Under this proposal, we're looking to add 30 feet to the building, knock off the vestibule and add 30 feet to the front of the building which would take the required front yard setback from 60 feet down to about 38.7, 38 feet. What we're looking to do is to in front of the building to basically create a curbed island for outdoor seating, some planting, some low landscaping around the

building. What we're also looking to do is to because there's currently--

MR. KANE: Is there parking in that area right now?

MR. HIGBY: There is, there's four, maybe I should of did this before, this gives a general, if you want to take a look at some of these.

MR. TORLEY: Here's the planning board minutes, they actually have more parking than they require.

MR. HIGBY: I believe there's 20 spaces existing but we're losing four spaces by putting the addition in the front of the building. But what we're doing is we're adding some pavement and parking space in the back of the property.

MR. KANE: So you're still over on the parking that's required?

MR. HIGBY: That's correct, yes, we then end up having 25 and based on the occupant count, we require 18 so we're 7 spaces in addition to what we would need, but we're looking to dress up the building. If Mr. Fidanza gets the permission to go forward with this, we'll be going back to the planning board to go through the formal site plan approval process and whatever in terms of landscaping, site drainage and whatever else their requirements would be. But he has done some improvements on the property already in terms of dressing up the outside, but in terms of landscaping, but if he gets the approval, he'd like to do some repaving of the parking lot, some exterior alteration on the building itself, as well as some interior upgrades in terms of relocating some of the kitchen equipment, you know, locating his pizza ovens to face forward and a number of other things that are good business decisions on his part in terms of generating business for the store. But talking to Mr. Edsall we were looking to shorten the planning board process, come here, see if we can get the approval, if we get got the approval, we'd go back to the planning board and continue on through.

MR. KANE: On the picture that you have with us four parking spaces from the front, about how far out is the building going to extend? Can you show right here, give us a general idea, is it going to come, these are only 17 feet wide?

MR. HIGBY: They are 8 feet wide, on the basis of this here, we're looking that this is the end of the, which is right here, so we're looking to extend this curb, come out through here and approximate.

MR. KANE: And this is going to be a cement dining area or grass, what are you going to put in this?

MR. HIGBY: Probably going to be a combination of everything, certainly be cement, brick, something of that nature for where the dining, the patrons would be located but we'd like to add plantings.

MR. TORLEY: They're going to pave up over to where the sign is.

MR. HIGBY: Put a curb around the sign come back.

MR. TORLEY: Mike, is the outdoor dining, because it's covered, how does that sit as far as setbacks, is that covered in our code, put chairs and stuff in front of the, concrete benches in front of the store, does that count for as part of the structure?

MR. BABCOCK: We never really, we didn't take that into consideration.

MR. KANE: Movable picnic bench is probably what you're going with.

MR. TORLEY: Because it's continuously running from the building up.

MR. HIGBY: Well, the building would stop at this point here.

MR. TORLEY: There's no canopy or cover?

MR. HIGBY: No.

MR. TORLEY: The other thing is existing sign, does that meet the zoning code now? If you're going to do this, we want to try and clean everything up.

MS. CORSETTI: Mike, I don't--

MR. TORLEY: If you have to come through for this, same price for two as one.

MR. HIGBY: I understand that and I appreciate that. As far as I know, there's no violations and as far as I know, there's no plans to change the sign. So I don't know if that fits the bill.

MR. TORLEY: As I drive by and look at the sign, our sign code is pretty restrictive and I don't know, I have the feeling but not measurements that your sign may not be in compliance with the present code and if that's the case--

MR. KANE: If it's grandfathered in.

MR. TORLEY: No, it's not.

MR. KANE: There's no violations on it.

MR. TORLEY: He might as well get it taken care of now if he's going for this zoning change, let's get the sign taken care of too, that means you'll never have a problem in the future.

MR. HIGBY: But I don't know that there is a problem, first off, the posts themselves that are in the ground--

MR. TORLEY: Sign area, the code sign area is very small.

MR. HIGBY: Honestly, I don't know.

MR. BABCOCK: Well, he's got to come back for a public hearing, if that's the wishes and get the thing, we can write up a denial.

MR. TORLEY: Can that be part of the--

MR. BABCOCK: Sure.

MR. TORLEY: This covers you.

MR. HIGBY: I appreciate that.

MR. REIS: Do you intend to diminish the planting area around the sign? Looks like you are.

MR. HIGBY: Well, actually, no, that's going to remain the same width and that will be extended back, this actually ends right here, so we're still maintaining these two islands here, yet extending this back, so this will be picnic tables and landscaping in through here. I don't know if anyone wanted to see any of these other pictures here?

MR. RIVERA: It's not going to impede visibility or vision coming out of a parking lot area?

MR. HIGBY: No, we're trying not to do anything, anything that we do is probably going to be low plantings. Any questions?

MS. CORSETTI: May I keep this?

MR. HIGBY: Sure.

MR. TORLEY: Gentlemen, do you have any questions at this time? Accept a motion on the matter.

MR. REIS: I make a motion that we set up Mr. Franco Fidanza for a public hearing for his requested variance.

MR. KANE: Second the motion.

MR. TORLEY: Do you want to add in possible sign?

MR. REIS: The sign is in violation, add that to the variance requirements.

MR. TORLEY: Save you some time.



MR. HIGBY: As I say, I appreciate that.

MR. KANE: Bring it up to the owner and he can talk to the zoning department on that.

MR. HIGBY: I'll give Mr. Babcock a call.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

FOLEY, ROBERT

MR. TORLEY: Request for variation of Sec. 48-14A(4) of Supplemental Yard Regulations to permit a detached garage to be constructed closer to road than principal structure at 333 Lake Road in an R-1 zone.

Mr. and Mrs. Robert Foley appeared before the board for this proposal.

MR. FOLEY: That's my wife, Donna, over here, also.

MR. TORLEY: Let me tell you one thing, for most everybody in the audience, only going to do this once in their life, we have a preliminary meeting, that is what these are, so you can tell the board what you want and get some feedback because by law, everything that the board does has to be done at a public hearing. This way, nobody gets surprised at the public hearing. We know what you're expected and vice versa, so really more is a courtesy to make everything run smoother.

MR. KANE: People from other towns, they don't know what they need when they walk into a meeting like this and they walk in if it's right there then and you don't have it, you lose, so we decided that the better way to do it was a preliminary so both sides get what they need to have a good public hearing on whatever it is.

MR. TORLEY: So nobody's surprised.

MR. FOLEY: Understood. Basically, we're looking to get a variance so we can put up a pole barn on our property, 24 x 24 and basically it's going to be for residential use, so my wife and I can park our cars in it for inclement weather, so we have two very young children, we want to be able to park our cars on our property. And as of right now, we're being declined because they're saying that we have two front yards, Vidi Drive being a private road where we want to put our pole barn 30 feet in from Vidi Drive into our property, I also have some pictures here to show you.

MR. KANE: If it wasn't for the second front yard, would they be here?

MR. TORLEY: I don't see that on the tax map, the private road.

MR. BABCOCK: They're on the corner of Lake and Vidi Drive.

MR. FOLEY: I provided a plot plan for my engineer also, it's a private road and I provided a plot plan for my engineer.

MR. BABCOCK: This is one of the older subdivisions where the property lines run down the middle of the road, so the road doesn't show, everybody owns half the road, this is a copy of our plot plan that I had dropped off at the Town Hall.

MR. KANE: So the question still stands, if they didn't have the second front yard, would they be here?

MR. BABCOCK: No. Typically from the main road, Mike, it's behind the house.

MR. FOLEY: Where the cars are parked over here is where we'd like to put the proposed pole barn. Basically, Lake Road is way down here and this is the private road.

MR. KANE: In the building of this garage in that area, any easements in that particular area?

MR. FOLEY: No.

MR. KANE: Going to be going over any septic or well?

MR. FOLEY: No, that's why I provided the plot plan showing that I won't be.

MR. KANE: Are you going to create any type of water hazards or water runoff with the building of this?

MR. FOLEY: No, flat land.

MR. KANE: Other homes in the neighborhood have similar type garages, not exact, but they do have a garage?

MR. FOLEY: Mostly probably attached, but we have a Victorian home here and I wanted to provide something that would be similar, exactly the same siding, the same roof.

MRS. FOLEY: It's going to be a pretty garage, it's going to match the house.

MR. KANE: But they do have garages on their homes?

MRS. FOLEY: Attached.

MR. FOLEY: Yes.

MR. TORLEY: Part of the variance is that you're not changing the neighborhood's appearance.

MR. FOLEY: No.

MR. TORLEY: That's why we're asking. We'll be asking the same questions at the public hearing. And you're set back from the private road, are you part of the private road association?

MR. FOLEY: Yes, well, actually, this is such a long time ago, there really is no association that says, way over, I guess started in 1978 and everybody on the road now we all do pay just for just like plowing and stuff like that.

MR. TORLEY: Gentlemen?

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move we set up Mr. Foley for a public hearing on his requested variance at 333 Lake Road.

MR. REIS: Second it.

ROLL CALL

MR. REIS                      AYE

January 14, 2002

12

MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

ROSSI/DERIENZO

MR. TORLEY: Request for 28 sq. ft. sign area variance for freestanding sign at 314 Quassaick Avenue in R-4 zone.

Mr. Jerome Rossi appeared before the board for this proposal.

MR. ROSSI: We're allowed to put a sign in front of the building, which is restrictive, and we would like to be able to put a sign that's 4 feet wide by 6 foot high, actually, two signs facing in opposing directions on Route 94.

MR. TORLEY: Two sided sign?

MR. ROSSI: It's two sided sign, yeah, there's an approved site plan that shows them in a V configuration.

MR. KANE: Any existing sign that's there now?

MR. ROSSI: There's a temporary sign that we did put up.

MR. KANE: Just a temporary?

MR. ROSSI: Right.

MR. KANE: Where on 94 are you?

MR. ROSSI: We're on Route 94 at the intersection of Quassaick Avenue and Blooming Grove Turnpike, there's a fork in the road.

MR. RIVERA: Is that the old nursing home?

MR. ROSSI: Yes.

MR. KRIEGER: What's the nature of the business?

MR. ROSSI: CPA firm.

MR. TORLEY: Which is permitted in an R-4 zone.

MR. KANE: How far off of the road do you intend on putting this sign?

MR. ROSSI: Okay, there's an approved site plan which shows the location of the sign in the front and it's going to be within the town guidelines.

MR. KANE: When you come in for the public hearing, would you bring in a picture of the area and show us the traffic path so that we have something?

MR. ROSSI: I have all that stuff, absolutely.

MR. TORLEY: One of our chief concerns is public health and safety, want to make sure it's not going to interfere with anybody's vision.

MR. ROSSI: Absolutely and we were mindful in choosing that spot.

MR. KANE: Mr. Rossi, also, for the public hearing, just if you can, if there's any way that you can just make sure this is the smallest sign you can get away with, you know what I mean, that you don't need a variance.

MR. KRIEGER: You're not asking for more than you need.

MR. ROSSI: Yeah and we'd like, we'd love to have a big sign in front of the building, so maybe I'm a little bit motivated by that, but if somebody's looking for us and wants to know where to pull in, there's a safety concern there cause they're not--I was looking for a street yesterday on Long Island and I was a traffic hazard because I'm driving in the left lane, big road, and I'm slowing down constantly to read the little narrow signs, so it helps.

MR. KANE: Just be prepared to address that.

MR. TORLEY: Illuminated sign?

MR. ROSSI: It's not, it hasn't been approved for illuminated sign, we took the liberty of putting the

wires there but we're not going to illuminate it because we're not approved.

MR. KANE: If you do that and go that route, is that an internal illumination or outside with spotlights?

MR. ROSSI: Probably outside with spotlights.

MR. TORLEY: You are familiar with the light code for New Windsor?

MR. ROSSI: That's why we're not doing anything, we're going to design it.

MR. TORLEY: Check it out because we have codes requiring how the light can be directed and things like that.

MR. ROSSI: Okay.

MR. REIS: Before we vote, I want to disclose that my brother is affiliated with his firm but it has no bearing on my vote.

MS. CORSETTI: They do my taxes, too.

MR. TORLEY: Gentlemen, any other questions you have at this time?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I make a motion that we set up Rossi/Derienzo for their requested variance at 314 Quassaick Avenue.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE



MR. TORLEY: We're going to need you just have the square footage if you can bring in a design plan for the sign.

MR. ROSSI: We have all that actually and it's all part of the original site plan.

MR. TORLEY: Again, be prepared to talk why you need a sign bigger than this because this is an R-4 zone.

MR. KANE: Want to make sure it fits in the neighborhood on the bend.

MR. ROSSI: Okay.

MR. TORLEY: Residential areas we're more concerned with sign areas, not sign size than in other areas.

MR. REIS: It might help if you take a picture of the medical facility across the street, their signage is somewhat compatible to what you have.

MR. ROSSI: Yes.

DEAN, SAMUEL

MR. TORLEY: Request for variation of Section 48-14A(4) of Supplemental Yard Regulations to allow proposed shed to project closer to road than residence at 15 Clintonwood Drive in R-4 zone.

Ms. Dina Dean appeared before the board for this proposal.

MS. DEAN: I'm not Samuel, I'm Dina, in case you're wondering. This is the only picture I brought but I do have a drawing of it and what we'd like to do. When we first applied, we were told that the restriction was ten feet from the lot line, we were never told that there was any difference for a corner lot which we have and I would like to know why a corner lot takes a different treatment?

MR. TORLEY: Because by some strange quirks in the code, you have two front yards because we have a road on each side, you have Jennifer Court and Clintonwood Drive, you're on the corner, so you're considered by code to have two front yards. There are some lots that have three front yards.

MS. DEAN: Okay, you've answered that question. When we have just added on to the house and when we had the inspection for that, Frank came and he said he didn't think we'd have a problem but of course, that's not up to him, that's up to you. I'd like to point out that where the shed was placed when we got our permit back it's over a well line which comes from the original property, this was all a farm at one time, and the pipe from the well up on the hill goes right under the place where you would like us to put our shed and when we were excavating we did hit that pipe and the town came and they said well, we don't know where this is coming from, but we heard, our neighbors said we didn't have any pressure for a while. So we're a little concerned about putting a shed over that line. It's been capped, it's an iron pipe, it's not a plastic pipe or anything like that, but we're concerned and we'll use this area to landscape it so it won't be an obvious eyesore to our neighbors or us.

MR. KANE: Other neighbors in the area have outdoor sheds that they use?

MS. DEAN: Yes.

MR. KANE: Similar in size?

MS. DEAN: Yes.

MR. KANE: Not going to create any water hazards or runoffs?

MS. DEAN: No, not if we don't put it over the pipe. I have a picture of the shed and it's almost identical to the one next door to us.

MR. KANE: Mike, for the record, if it wasn't for the second front yard, would they be here?

MR. BABCOCK: No.

MR. KANE: Thank you.

MR. TORLEY: When you come back for the public hearing, we appreciate the photos, if you can bring them back and your point about having by code it would be sitting over an old well line is a good one, you might want to talk to your neighbors because you'll have to send out a formal letter and let them know it's coming because they can be confusing.

MS. DEAN: That's fine, we'll be happy to do that.

MR. TORLEY: Now, so there's an old well line but no deeded easement?

MR. KANE: It doesn't make a legal difference.

MR. KRIEGER: Sounds like it's not an active well.

MS. DEAN: Yeah, yes, it is, there was an enormous well, we had to get the town to approval us on filling the well.

MR. KRIEGER: People aren't using it for water supply?

MS. DEAN: It comes from a well that's being used, yes, which is--

MR. TORLEY: This is an overflow line that's no longer in use?

MS. DEAN: Well, no, if it doesn't burst but--

MR. TORLEY: Gentlemen, any other questions at this time?

MR. REIS: I'm not sure. Your intention is to put the shed over this water line?

MS. DEAN: No, there was, the intention of the zoning board when they showed us where to put the shed, our intention is to remove it to an area where it will not go over the water line, just in case.

MR. BABCOCK: Mike, when she moves the shed within the limits of the law, it's over top of this pipe so she needs to move it forward.

MR. REIS: This reflects what we're going to do?

MR. BABCOCK: That's correct.

MR. KRIEGER: What she proposes to do is to avoid that.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move that we set up the Samuel Dean for the public hearing on his requested variance at 15 Clintonwood Drive.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE

January 14, 2002

20

MR. RIVERA  
MR. TORLEY

AYE  
AYE

PUBLIC HEARING

LOCURTO, JOSEPH

MR. TORLEY: Request for 3 ft. side yard and 5 ft. rear yard variances for existing shed at 369 Chestnut Avenue in an R-4 zone.

Mr. Joseph Locurto appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? Let the record show there is none.

MS. CORSETTI: We have 29 notices that went out to adjacent property owners on December 26.

MR. LOCURTO: Basically, it's a variance for the existing shed that I have that was moved, I have two front yards.

MR. KANE: How long has the shed been in existence?

MR. LOCURTO: I'm gonna say approximately two years.

MR. KANE: Any complaints formally or informally about the shed?

MR. LOCURTO: No, it was moved over in that location when they put the development in behind me.

MR. KANE: Any creation of water hazards when building the shed?

MR. LOCURTO: No.

MR. KANE: Cutting down any trees?

MR. LOCURTO: No.

MR. TORLEY: Anybody take a shot at the deer you've got?

MR. LOCURTO: My son with the bow.

MR. KANE: Shed is similar in size to other sheds in the neighborhood?

MR. LOCURTO: Yes, many.

MR. REIS: What brings you to the ZBA, Joe?

MR. LOCURTO: Basically, I had a violation, I didn't know I had the violation.

MR. TORLEY: And the shed is in its present position, is there any reason it can't be moved? Is it on cement?

MR. LOCURTO: If it had to be moved, it can be moved.

MR. TORLEY: Some geographical reason why it can't be moved into compliance because of the landscaping, over a sewer line?

MR. LOCURTO: The way that the yard is set up and I think you can see there it's really the only location where I can really put it and there's enough room in between the pool and the shed if I had to get a truck around from the well, I could get a truck around the whole yard.

MR. TORLEY: If you moved the shed in compliance with the zoning code, it would make it difficult for you to operate and do repair work on the pool or other types of structures?

MR. LOCURTO: Yes, it would, if I was to move it closer.

MR. BABCOCK: This is the one that's Rico Drive was built by.

MR. KRIEGER: If he has two front yards.

MR. BABCOCK: That's correct. There was, that's a new subdivision that goes down behind him, his house has been there for several years and when they put the new subdivision in, they created a corner lot for him.

MR. KANE: If there wasn't a second front yard, would he be here?

MR. BABCOCK: No, because the shed would be fine.

MR. TORLEY: Gentlemen?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I make a motion that we accept and pass Mr. Locurto's request for his variance at 369 Chestnut Avenue.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE



O'KEEFE, DAVID

MR. TORLEY: Request for 3 ft. side yard and 7 ft. rear yard variances for proposed above-ground pool, plus 3 ft. rear yard variance for proposed deck at 2101 Patriot Court in an R-3 zone.

Mr. David O'Keefe appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? We're asking for your name and address so we can have it properly in the record.

MR. O'KEEFE: Yeah, I have the first thing was the deck was 4 x 8 deck that the builder had put on and we discussed it at the preliminary hearing that they had taken it off the day of the closing inspection, the day before occupancy and the building inspector asked them to take it off because it was a couple feet into the setback rule, so I was asking for a variance where they could and I have an agreement with the builder if I get the variance, he'll put the 4 x 8 deck back on.

MR. TORLEY: And the pool?

MR. O'KEEFE: And the pool is, I chose a spot where I thought was best for the, first of all, for the neighborhood, it would be behind the structure, it would be a most private spot in the property. The other side of the house is the side facing the intersection which I think we discussed which when you consider that two front yards, it moves the pool to the side where it's not directly behind my house or the house right behind me, so if they put a patio on, the pool wouldn't be right on top of them. And to the other side, it's 26 feet to my next neighbor and it's more than that to the neighbor behind him which is catty-corner, so I think that leaves a good buffer between those houses also.

MS. CORSETTI: We did send out 17 notices to adjacent property owners on December 28.

MR. TORLEY: Gentlemen, questions at this time?

MR. KANE: What was the deck size again?

MR. O'KEEFE: It's roughly 4 x 8, I put down 4 x 8 but actually, I think if you measured it, it would be maybe 3 1/2 x 8.

MR. KANE: So it's not an extremely large deck.

MR. O'KEEFE: It's just a turnaround, you can come out.

MR. KRIEGER: It's consistent with sizes of the other decks in the neighborhood?

MR. O'KEEFE: It's the same size deck as all the other neighbors have.

MR. KANE: Do you have a door leading out to where the deck is supposed to be?

MR. O'KEEFE: Sliders.

MR. KANE: Without the deck, it would be a considerable safety hazard?

MR. O'KEEFE: Which it is now because they have steps directly down off the header so when you step out from the sliders now, you take one step directly down, I have pictures here, yeah, I have a picture if you'd like to see it.

MR. KANE: In putting up the pool, Dave, and the deck, are you going to create any water hazards or runoffs?

MR. O'KEEFE: No.

MR. KANE: Cutting any trees down to do this?

MR. O'KEEFE: No, there's no trees there.

MR. KANE: Other houses in the neighborhood have decks on the back of their house and pools?

MR. O'KEEFE: They have the exact deck that I am looking at.

MR. TORLEY: Probably the same problem, too.

MR. O'KEEFE: You know what's interesting, though, they just went into Reserve, that new street, there's a street down in the back which has I thought the same setbacks, but they occupied and kept the decks so it must be more than my setback, so I don't know if they'll all be in here.

MR. BABCOCK: The lots get deeper, if they're deeper, the setbacks are always the same, the lots are deeper, some of them are deeper than others, different shapes.

MR. O'KEEFE: So I did notice.

MR. BABCOCK: I'm not the guy that sat there doing those inspections so I'm not sure but that sometimes is the way.

MR. O'KEEFE: This one, my house goes to the corner here and our house, my house and this house had to take it off, so I think we got pinched because the front setback had been 25, so I think I'm just theorizing.

MR. TORLEY: The house next to you.

MR. BABCOCK: They have two front yards, so it pushes the house back.

MR. O'KEEFE: But the model is, is it correct that the model is in for a variance also?

MR. BABCOCK: Not as yet but they're talking about that.

MR. KRIEGER: It's not built over the top of any well or septic system?

MR. O'KEEFE: No, not that I'm aware of.

MR. KRIEGER: Either the deck or pool?

MR. BABCOCK: That's town water and town sewer there.

MR. KRIEGER: Then it's not built over the top of any water or sewer easement lines?

MR. O'KEEFE: No, not on this survey.

MR. TORLEY: Or power?

MR. O'KEEFE: No, power is all in the ground, comes in the front through the street.

MR. TORLEY: Water and sewer?

MR. O'KEEFE: Water comes in this way, sewer comes in right about here.

MR. TORLEY: At this point, I will open it up to the audience, stand up where you are and speak.

MS. FEHRS: Linda Fehrs, I live at 610 Mt. Airy Road. My mother is actually the title holder. I have a notarized note from her to speak on her behalf, if that's necessary. My concern is not with the deck. I don't have a problem with the deck at all, with the pool as far as there's a few things that I'm concerned about, one is setting precedence in the area because in the area there are no pools, I drove around I think I saw one pool within about a square mile of the area. Also, the property I live on has been in my family for about 60 years and I have lived there permanently for about 17 years and I'm familiar with what they did to the land as far as kind of sculpting it. We have always had problems with underground streams that kind of just run at the surface and creating sink holes and things in our property. Now the property where all the homes are is really very newly excavated and it's really going to take some time to settle. I can see already in some of the driveways waste and some of the properties that's already starting to occur where there's water buildup, there's water buildup in the street already where the water's not going down with the sewer, when the lake comes up right now, it's pretty empty, when the lake comes up sometimes it can come up over the road and he's actually, actually pretty close to where some of the water lines can come up to on the property. My concern is for safety that

things can sink and create holes as the underground streams dry with the sewer and everything that's been put in, I think that's even a greater danger of creating sink holes because as you're removing volume from underneath the land, things can settle. Number of those houses are built on wetlands, number of the houses are built smaller than is zoned for in that area, they were given special consideration in the law and that's been going on for about 20 years so I'm concerned that there's variance upon variance upon variance. It's not really similar to other houses in the neighborhood, I, for example, live on 5 1/3 acres, most of the neighborhood there right now lives on acres, two acres, three acres four acres and most of these houses are on, I don't know about your property in particular, are on about 90 x 90 pieces of property and the zoning in that area in general for anybody else that was going to build other than that development is I believe it's a half acre with sewer and water. And these are about a quarter of an acre.

MR. TORLEY: This was an old developed plan that the court decisions are required.

MS. FEHRS: Originally, Mt. Airy Estates owned by Mr. Blumenfeld, it's now his son-in-law, his partner's son-in-law that owns it as the reserve and I know it's been, cause I was part of a group called Citizens for Better New Windsor that are opposed to the development.

MR. TORLEY: Now, in regard to the pool, a variance for the position of the pool would not relieve the applicant from any other requirements as far as structure integrity, foundation work that might be considered necessary, only physical location of it.

MS. FEHRS: It's pretty small.

MR. TORLEY: He can physically locate the pool legally on his property. What he's trying to do is put it in a position where the applicant stated that it might be less public and more shielded by other houses.

MS. FEHRS: Your property is right on the corner, it's in public view, I mean, it's right there.

MR. KANE: That doesn't make a difference, he can go, what the Chairman is saying is that he can go with it, put that pool someplace on his property and not be here at all and not need anybody's permission whatsoever. So what he's trying to do in the interest of the neighborhood is to put it right back in the corner where he feels it's the safest and the least intrusive on people in the neighborhood so it's, you have your choice here, he can go there or just put up what he wants where he wants within the law.

MS. FEHRS: My objection would still be the same.

MR. KANE: There is no objection with him building the property, it's a legal lot.

MS. FEHRS: My problem is not visual, my problem is safety with sink holes and setting a precedence for future pieces of property.

MR. KANE: We do not set precedents, every case is taken on its own. There's no precedents set.

MS. FEHRS: Who would be liable? I know I wouldn't, but if there was something, like what happened at Butterhill when the decks fell off the houses.

MR. TORLEY: You'd have to speak to an attorney.

MS. FEHRS: Would it be the town who allows it or the property owner who would be liable?

MR. KANE: That's not what we do, don't know, you would need to talk to a lawyer about that, I don't know who would be ultimately responsible.

MR. TORLEY: In our case, free advice would be worth exactly what it costs.

MS. FEHRS: Yes, right, cause I just know what happened with our property and I know the property is very new and not settled yet, it's really only been excavated less than a year and houses went up very quick and I do have pictures in the future, not related to this, of

houses that were built on top of ponds, basically that were sucked out and built very quick right on top of where the water. And I don't know about his house in particular if that's a consideration of the property.

MR. TORLEY: Again, any foundation work that would be required to support an above-ground pool, he still, he's not relieved from that obligation at all, just physically where it can be.

MS. FEHRS: How far away from the property line would it end up being?

MR. O'KEEFE: From the rear property?

MS. FEHRS: Well, from your property line, how much from the edge of the pool?

MR. O'KEEFE: I have the whole thing laid out right here.

MS. FEHRS: I drove by there this morning, actually.

MR. BABCOCK: It's going to be three foot off the property line.

MS. FEHRS: My opposition isn't really visual, it's more safety factor so just being able to put my two cents in.

MR. O'KEEFE: There wasn't a pond there, was there? Did you happen to see a pond before that house was built?

MS. FEHRS: Yours, I don't know, the ones on the road, yeah, I mean, you really might want to think about that, you really might want to because it took about five years for our land to settle and we have holes that are about 4 feet down.

MR. O'KEEFE: Did you have cracking in the foundation?

MR. TORLEY: Can we hold that for another time?

MS. FEHRS: No, the streams that have affected us seem

to run through this way on the property so I don't know where they'd turn and twist.

MR. TORLEY: Or whether they have been changed by the houses.

MS. FEHRS: I know.

MR. TORLEY: I'll close the public hearing and move it back to the members of the board. Gentlemen, any other questions?

MR. RIVERA: I make a motion to approve David O'Keefe's rear deck variance.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

MR. KANE: I move we approve the request for three foot side yard and seven foot rear yard variance for proposed above-ground pool.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

\*

FORMAL DECISIONS

1. SHEEHAN
2. DIMICELI
3. PANAGIOTOPOULOS
4. BOTZAKIS
5. BILA/ORANGE COUNTY TRUST



MR. TORLEY: We have the five formal decisions, gentlemen, what's your pleasure?

MR. KANE: I move we take all decisions in one vote.

MR. REIS: That we pass on it, second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

MR. RIVERA: Motion to adjourn.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth  
Stenographer

2/25/02

-----X  
In the Matter of the Application of

**GEORGE BOTZAKIS**

MEMORANDUM  
OF DECISION  
GRANTING VARIANCE

#01-48.  
-----X

**WHEREAS, GEORGE BOTZAKIS**, 198 Quassaick Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a parking variance of 11 spaces at ABC Pizza, at the above location, in an NC zone; and

**WHEREAS**, a public hearing was held on the 22nd day of October, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared by Eric Mason for this Application; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in favor or in opposition to the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located in a mixed neighborhood of commercial and residential properties.

(b) The property is located on a busy state highway.

(c) The property is a restaurant that includes take-out service.

(d) The Applicant seeks to reconfigure the parking lot by adding 11 additional spaces.

(e) The expansion of the parking area will not create any additional water drainage or run off to the neighbors since the area will not be blacktopped.

(f) The increased parking area will not create any ponding or collection of water, or be built on the top of any water or sewer easement.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variance.

**NOW, THEREFORE, BE IT**

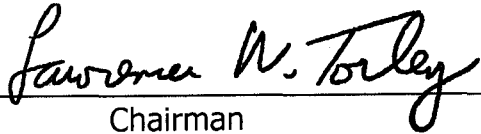
**RESOLVED,** that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 11 additional parking spaces at ABC Pizza located at 198 Quassaick Avenue, New Windsor, N. Y., in an NC zone, as sought by the

Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 14, 2001.

  
Chairman

In the Matter of the Application of

**BILA FAMILY PARTNERSHIP/ORANGE  
COUNTY TRUST**

MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCES

#01-52.

**WHEREAS, BILA FAMILY PARTNERSHIP**, 158 North Main Street, Florida, New York 10921, owner, and **ORANGE COUNTY TRUST CO.**, tenant, have made application before the Zoning Board of Appeals for: Façade sign #1: 2 ft. height and 2 ft. width; Façade sign #2: 5 ft. sign height in variation of Section 48-18H(1)(b) of the Supplemental Sign Regulations for property located on Route 32 at the Big V Town Centre, Route 32, in a C zone; and

**WHEREAS**, a public hearing was held on the 22nd day of October, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared by Sharlene DiNunzio of Lewis Sign Co.; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in favor or in opposition to the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property consisting of one building located in the middle of a large parcel developed for use as a shopping center. This entire parcel is located in a commercial zone and substantial commercial neighborhood.

(b) The Applicant proposes signs to be placed on the façade of a commercial bank facility located in the middle of the shopping center.

(c) The front façade sign, as proposed, is consistent with and appropriate to the size of the structures.

(d) The front façade sign will be sufficient to identify the existence of the business to motorists traveling on the adjacent, busy commercial highway.

(e) The second sign is placed on the rear of the building and is merely for identification by persons already in the shopping center.

(f) The size of the sign applied for, 2.5 ft. x 10 ft. is the largest sign that the landlord of the property will permit, independent of any determination by the ZBA.

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances as previously stated are reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.

8. The interests of justice will be served by allowing the granting of the requested area variances.

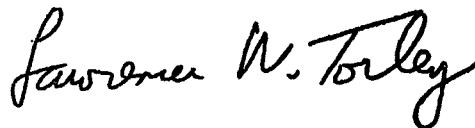
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for Façade signs #1: 2 ft. height and 2 ft. width; and Façade Sign #2: 5 ft. sign height in variation of Section 48-18H(1)(b) of the Supplemental Sign Regulations for Orange County Trust Co. located at Big V Town Centre on Route 32 in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 14, 2002.



---

Chairman

In the Matter of the Application of

**LOUIS DI MICELI**

MEMORANDUM OF  
DECISION GRANTING

AREA VARIANCE

#01-51.

**WHEREAS, LOUIS DI MICELI**, 786 Jackson Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 25 ft. lot width variance for construction of a single-family residence at 786 Jackson Avenue in an R-1 zone; and

**WHEREAS**, a public hearing was held on the 22<sup>nd</sup> day of October, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, Applicant appeared by Anthony Fayo for this Application; and

**WHEREAS**, there were two spectators appearing at the public hearing; and

**WHEREAS**, one of the spectators spoke regarding his concern for water run off in the area of the parcel and stated that he objected to this Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a vacant parcel located in a neighborhood of one-family home.

(b) Applicant seeks a variance to construct a single-family residence.

(c) Since the property is located in a residential neighborhood, the proposed construction will be consistent with the neighborhood.

- (d) The proposed construction of the residence will be in line with the other homes in the area and will appear consistent with those homes.
- (e) The proposed construction will not create any water hazards, ponding or collection of water.
- (f) The proposed construction will not be located on the top of any well or septic system or any water or sewer easement.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variance requested is not substantial in relation to the Town regulations but nevertheless is warranted.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is not self-created.
6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance.

**NOW, THEREFORE, BE IT**

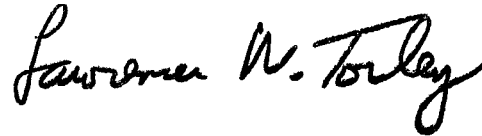
**RESOLVED,** that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 25 ft. lot width variance for construction of a single-family residence at 786 Jackson Avenue in an R-1 zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.



**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicants.

Dated: January 14, 2002.

A handwritten signature in black ink, reading "Lawrence W. Torley". The signature is written in a cursive style with a large initial 'L' and a stylized 'T'.

---

Chairman

-----X  
In the Matter of the Application of

**PANAGIOTOPOULOS/FIESTA CINCO DE MAYO**

MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE

#01-43.  
-----X

**WHEREAS, KONSTANTINOS G. PANAGIOTOPOULOS**, 65 Eisenhower Drive, Middletown, N. Y. 10940, owner, and **FIESTA CINCO DE MAYO, dba Tomas Guzman**, 27 East Avenue, Washingtonville, N. Y. 10992, tenant, have made application before the Zoning Board of Appeals for a 16 sq. ft. sign variance for a freestanding sign to be located at 1004 Route 94 (formerly Demo's Café), in a C zone; and

**WHEREAS**, a public hearing was held on the 22nd day of October, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared by Maria Estrella for this proposal; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in favor or in opposition to the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
  - (a) The premises are located on a busy highway in the Town of New Windsor.
  - (b) The proposed sign replaces the former "Demo's Café" sign which had been destroyed during a storm. Applicant ordered a new sign to be constructed that was the same size as the former sign, but did not realize that the previous sign did not conform to Town Code.
  - (c) The proposed freestanding sign will be illuminated with steady, interior illumination which will not be flashing.

(c) There are multiple other stores and signs along the same highway.

(d) The proposed sign will not obstruct the view of traffic on the highway and will be located in the area where the previous sign was located.

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variance as previously stated is reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.

8. The interests of justice will be served by allowing the granting of the requested area variance.

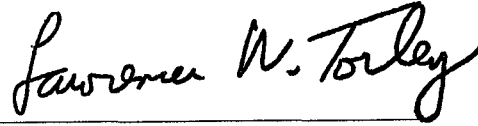
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 16 sq. ft. sign area variance for a freestanding sign for a new restaurant to be known as Fiesta Cinco de Mayo located at 1004 Route 94 (formerly Demo's Café) in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 14, 2002.

A handwritten signature in black ink, reading "Lawrence W. Torley". The signature is written in a cursive style with a large, stylized 'L' and 'T'.

---

Chairman

In the Matter of the Application of

**TIMOTHY SHEEHAN**

**MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCES**

#01-57.

**WHEREAS, TIMOTHY SHEEHAN**, residing at 9 Mecca Drive, New Windsor, New York, N. Y. 12553, has made application before the Zoning Board of Appeals for a 6 ft. side yard and 6 ft. 7 in. rear yard variance for an existing shed at the above single-family residence in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 26th day of November, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in favor or in opposition to the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property consisting of a one-family home located in an R-4 zone neighborhood containing one-family homes.

(b) The Applicant seeks a variance to permit a shed which has been in existence for at least four years.

(c) There have been no complaints received, either formal or informal regarding the shed.

(d) The existing shed does not create any ponding or collection of water or interfere with water drainage and is not constructed on the top of any septic or well, sewer or water easement.

(e) The existing shed is similar to other sheds in the neighborhood.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

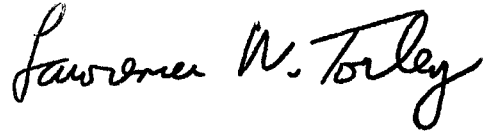
**NOW, THEREFORE, BE IT**

**RESOLVED,** that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 6 ft. side yard and a 6 ft. 7 in. rear yard variance for an existing shed at the above address, in an R-4 zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 14, 2002.

A handwritten signature in cursive script, reading "Lawrence W. Torley". The signature is written in dark ink and is positioned above a horizontal line.

---

Chairman